

House File 589

H-1292

1 Amend House File 589 as follows:

2 1. By striking everything after the enacting clause  
3 and inserting:

4 <Section 1. Section 717A.1, Code 2011, is amended  
5 by adding the following new subsection:

6 NEW SUBSECTION. 1A. "*Agricultural animal facility*"  
7 or "*facility*" means a location where an agricultural  
8 animal is maintained, including but not limited to a  
9 location dedicated to farming as defined in section  
10 9H.1, a livestock market, or an exhibition.

11 Sec. 2. Section 717A.1, subsection 2, Code 2011, is  
12 amended to read as follows:

13 2. "*Agricultural production*" means any activity  
14 related to maintaining an agricultural animal at  
15 an agricultural animal facility or a crop on crop  
16 operation property.

17 Sec. 3. Section 717A.1, subsections 3 and 4, Code  
18 2011, are amended by striking the subsections.

19 Sec. 4. Section 717A.1, subsection 7, Code 2011, is  
20 amended to read as follows:

21 7. "*Crop operation*" means a ~~commercial enterprise~~  
22 ~~where a crop is maintained on the property of the~~  
23 ~~commercial enterprise location where a crop is~~  
24 maintained, including but not limited to a crop field,  
25 orchard, nursery, greenhouse, garden, elevator,  
26 seedhouse, barn, or warehouse.

27 Sec. 5. Section 717A.1, subsection 9, paragraph a,  
28 Code 2011, is amended to read as follows:

29 a. For an agricultural animal maintained at an  
30 agricultural animal facility or property ~~belonging~~  
31 ~~to~~ kept at an agricultural animal facility, "*deprive*"  
32 means to do any of the following:

33 (1) Withhold the agricultural animal or property  
34 for a period of time sufficient to significantly reduce  
35 the value or enjoyment of the agricultural animal or  
36 property.

37 (2) Withhold the agricultural animal or  
38 property for ransom or upon condition to restore  
39 the agricultural animal or property in return for  
40 compensation.

41 (3) Dispose of the agricultural animal or property  
42 in a manner that makes recovery of the agricultural  
43 animal or property by its owner unlikely.

44 Sec. 6. Section 717A.1, subsection 10, paragraph a,  
45 Code 2011, is amended to read as follows:

46 a. Keep and provide for the care and feeding of any  
47 agricultural animal, including any activity relating  
48 to confining, handling, breeding, transporting, or  
49 exhibiting the animal.

50 Sec. 7. Section 717A.1, subsection 11, paragraphs a

1 and b, Code 2011, are amended to read as follows:

2     a. A person, including a public or private entity,  
3 who has a legal interest in an agricultural animal  
4 maintained at the agricultural animal facility or other  
5 property belonging to kept at an agricultural animal  
6 facility, or a person who is authorized by the holder  
7 of the legal interest to act on the holder's behalf in  
8 maintaining the animal or keeping the other property.

9     b. A person, including a public or private entity,  
10 who has a legal interest in a crop maintained at the  
11 crop operation or crop operation other property kept at  
12 the crop operation, or a person who is authorized by  
13 the holder of the legal interest to act on the holder's  
14 behalf in maintaining the crop or keeping the other  
15 property.

16     Sec. 8. Section 717A.1, Code 2011, is amended by  
17 adding the following new subsection:

18     NEW SUBSECTION. 11A. "Record" means any printed,  
19 inscribed, visual, or audio information that is  
20 placed or stored on a tangible medium, and that may  
21 be accessed in a perceivable form, including but not  
22 limited to any paper or electronic format.

23     Sec. 9. Section 717A.2, Code 2011, is amended by  
24 striking the section and inserting in lieu thereof the  
25 following:

26     **717A.2 Agricultural animal facility tampering.**

27     1. A person is guilty of agricultural animal  
28 facility tampering if the person acts without the  
29 consent of the owner of an agricultural animal facility  
30 to willfully do any of the following:

31     a. Damage, destroy, or alter property kept at the  
32 agricultural animal facility, including but not limited  
33 to land, fixtures, structures, equipment, machinery,  
34 vehicles, records, or computer software or data.

35     b. Kill or injure an agricultural animal maintained  
36 at the agricultural animal facility, including by an act  
37 of violence or the transmission of a disease including  
38 but not limited to any infectious or contagious disease  
39 designated by the department of agriculture and land  
40 stewardship pursuant to section 163.2.

41     c. Take by theft an agricultural animal maintained  
42 or other property kept at the agricultural animal  
43 facility.

44     d. Disrupt operations conducted at the agricultural  
45 animal facility, if the operations directly relate  
46 to agricultural production, agricultural animal  
47 maintenance, educational or scientific purposes, or  
48 veterinary care.

49     2. A person who commits the offense of agricultural  
50 animal facility tampering is guilty of the following:

1     *a.* Agricultural animal facility tampering in the  
2 first degree occurs when the result of the offense  
3 is damages incurred by the owner of the agricultural  
4 animal facility of more than one hundred thousand  
5 dollars. A person convicted of agricultural animal  
6 facility tampering in the first degree is guilty of a  
7 class "C" felony.

8     *b.* Agricultural animal facility tampering in the  
9 second degree occurs when the result of the offense  
10 is damages incurred by the owner of the agricultural  
11 animal facility of more than ten thousand dollars but  
12 not more than one hundred thousand dollars. A person  
13 convicted of agricultural animal facility tampering in  
14 the second degree is guilty of a class "D" felony.

15     *c.* Agricultural animal facility tampering in the  
16 third degree occurs when the result of the offense  
17 is damages incurred by the owner of the agricultural  
18 animal facility of more than one thousand dollars but  
19 not more than ten thousand dollars. A person convicted  
20 of agricultural animal facility tampering in the third  
21 degree is guilty of an aggravated misdemeanor.

22     *d.* Agricultural animal facility tampering in the  
23 fourth degree occurs when the result of the offense is  
24 the damages incurred by the owner of the agricultural  
25 animal facility of more than three hundred dollars but  
26 not more than one thousand dollars. A person convicted  
27 of agricultural animal facility tampering in the fourth  
28 degree is guilty of a serious misdemeanor.

29     *e.* Agricultural animal facility tampering in the  
30 fifth degree occurs when the result of the offense  
31 is damages incurred by the owner of the agricultural  
32 animal facility of three hundred dollars or less. A  
33 person convicted of agricultural animal facility  
34 tampering in the fifth degree is guilty of a simple  
35 misdemeanor.

36     3. A person who participates in a conspiracy to  
37 commit the offense of agricultural animal facility  
38 tampering, and who acts in furtherance of that  
39 commission, is guilty of the same offense as the  
40 person convicted of committing the offense on or in the  
41 agricultural animal facility.

42     4. A person convicted of agricultural animal  
43 facility tampering is subject to an order of  
44 restitution as provided in chapter 910.

45     5. In determining the value of damages incurred  
46 by an owner of an agricultural animal facility under  
47 this section, a court shall calculate the actual and  
48 consequential pecuniary losses resulting from the  
49 commission of the offense.

50     Sec. 10. NEW SECTION. 717A.2A Agricultural animal

1 **facility interference.**

2 1. A person is guilty of agricultural animal  
3 facility interference, if the person acts without the  
4 consent of the owner of an agricultural animal facility  
5 to willfully do any of the following:

6 a. Produce a record which reproduces an image or  
7 sound occurring at the agricultural animal facility as  
8 follows:

9 (1) The record must be created by the person while  
10 at the agricultural animal facility.

11 (2) The record must be a reproduction of a visual  
12 or audio experience occurring at the agricultural  
13 animal facility, including but not limited to a  
14 photographic or audio medium.

15 b. Possess or distribute a record which produces  
16 an image or sound occurring at the agricultural animal  
17 facility which was produced as provided in paragraph  
18 "a".

19 c. Exercise control over the agricultural animal  
20 facility including an agricultural animal maintained  
21 at the agricultural animal facility or other property  
22 kept at the agricultural animal facility, with intent  
23 to deprive the agricultural animal facility of the  
24 agricultural animal or property.

25 d. Enter onto the agricultural animal facility,  
26 or remain at the agricultural animal facility, if the  
27 person has notice that the facility is not open to  
28 the public. A person has notice that an agricultural  
29 animal facility is not open to the public if the person  
30 is provided notice before entering onto the facility,  
31 or the person refuses to immediately leave the facility  
32 after being informed to leave. The notice may be in  
33 the form of a written or verbal communication by the  
34 owner, a fence or other enclosure designed to exclude  
35 intruders or contain agricultural animals, or a sign  
36 posted which is reasonably likely to come to the  
37 attention of an intruder and which indicates that entry  
38 is forbidden.

39 2. A person who commits the offense of agricultural  
40 animal facility interference is guilty of the  
41 following:

42 a. For the first conviction, the person is guilty  
43 of an aggravated misdemeanor.

44 b. For a second or subsequent conviction, the  
45 person is guilty of a class "D" felony.

46 3. A person convicted of agricultural animal  
47 facility interference is subject to an order of  
48 restitution as provided in chapter 910.

49 **Sec. 11. NEW SECTION. 717A.2B Agricultural animal**  
50 **facility fraud.**

1 1. A person is guilty of agricultural animal  
2 facility fraud, if the person willfully does any of the  
3 following:

4 a. Obtains access to an agricultural animal  
5 facility by false pretenses for the purpose of  
6 committing an act not authorized by the owner of the  
7 agricultural animal facility.

8 b. Makes a false statement or representation  
9 as part of an application to be employed at the  
10 agricultural animal facility, if the person knows it  
11 to be false.

12 2. A person who commits the offense of agricultural  
13 animal facility fraud is guilty of the following:

14 a. For the first conviction, the person is guilty  
15 of an aggravated misdemeanor.

16 b. For a second or subsequent conviction, the  
17 person is guilty of a class "D" felony.

18 3. A person convicted of agricultural animal  
19 facility fraud is subject to an order of restitution  
20 as provided in chapter 910.

21 Sec. 12. NEW SECTION. 717A.2C Agricultural animal  
22 facilities — civil actions.

23 1. A person suffering damages resulting from the  
24 commission of agricultural animal facility tampering  
25 as provided in section 717A.2 or agricultural animal  
26 facility interference as provided in section 717A.2A  
27 may bring an action in the district court against  
28 the person causing the damages to recover all of the  
29 following:

30 a. An amount equaling three times all actual and  
31 consequential damages.

32 b. Court costs and reasonable attorney fees.

33 2. In addition to awarding damages as provided in  
34 subsection 1, a court may grant any equitable relief  
35 that the court determines is appropriate. Nothing in  
36 this chapter shall prevent a party from petitioning a  
37 court for equitable relief.

38 Sec. 13. NEW SECTION. 717A.2D Agricultural animal  
39 facilities — exceptions.

40 1. Section 717A.2 or 717A.2A does not prohibit any  
41 conduct of a person holding a legal interest in an  
42 agricultural animal facility, an agricultural animal  
43 maintained at the agricultural animal facility, or  
44 other property kept at the agricultural animal facility  
45 which legal interest is superior to the legal interest  
46 held by a person incurring damages resulting from the  
47 conduct.

48 2. Section 717A.2 or 717A.2A does not apply to any  
49 of the following:

50 a. A governmental agency or officer who is taking

1 lawful action involving an agricultural animal  
2 facility, an agricultural animal maintained at the  
3 agricultural animal facility, or other property kept at  
4 the agricultural animal facility.

5 *b.* A licensed veterinarian practicing veterinary  
6 medicine as provided in chapter 169 and according to  
7 customary standards of care.

8 *c.* An animal shelter as defined in section 162.2.

9 *d.* A representative of a nonprofit organization  
10 present for the purpose of informing the public of an  
11 illegal activity observed at the agricultural animal  
12 facility.

13 Sec. 14. Section 717A.3, Code 2011, is amended by  
14 striking the section and inserting in lieu thereof the  
15 following:

16 **717A.3 Crop operation tampering.**

17 1. A person is guilty of crop operation tampering  
18 if the person acts without the consent of the owner of  
19 a crop operation to willfully do any of the following:

20 *a.* Damage, destroy, or alter property kept at the  
21 crop operation, including but not limited to land,  
22 fixtures, structures, equipment, machinery, vehicles,  
23 records, or computer software or data.

24 *b.* Destroy or injure a crop maintained at a crop  
25 operation, including by an act of violence or the  
26 transmission of a disease including but not limited to  
27 any disease or pests.

28 *c.* Take by theft a crop maintained or other  
29 personal property kept at the crop operation.

30 *d.* Disrupt operations conducted at the crop  
31 operation, if the operations directly relate to  
32 agricultural production, crop maintenance, educational  
33 or scientific purposes, or horticultural care.

34 2. A person who commits the offense of crop  
35 operation tampering is guilty of the following:

36 *a.* Crop operation tampering in the first degree  
37 occurs when the result of the offense is damages  
38 incurred by the owner of more than one hundred  
39 thousand dollars. A person convicted of crop operation  
40 tampering in the first degree is guilty of a class "C"  
41 felony.

42 *b.* Crop operation tampering in the second degree  
43 occurs when the result of the offense is damages  
44 incurred by the owner of the crop operation of more  
45 than ten thousand dollars but not more than one hundred  
46 thousand dollars. A person convicted of crop operation  
47 tampering in the second degree is guilty of a class "D"  
48 felony.

49 *c.* Crop operation tampering in the third degree  
50 occurs when the result of the offense is damages

1 incurred by the owner of the crop operation of more  
2 than one thousand dollars but not more than ten  
3 thousand dollars. A person convicted of crop operation  
4 property tampering in the third degree is guilty of an  
5 aggravated misdemeanor.

6 d. Crop operation tampering in the fourth degree  
7 occurs when the result of the offense is damages  
8 incurred by the owner of the crop operation of more  
9 than three hundred dollars but not more than one  
10 thousand dollars. A person convicted of crop operation  
11 tampering in the fourth degree is guilty of a serious  
12 misdemeanor.

13 e. Crop operation tampering in the fifth degree  
14 occurs when the result of the offense is damages  
15 incurred by the owner of the crop operation of three  
16 hundred dollars or less. A person convicted of crop  
17 operation tampering in the fifth degree is guilty of a  
18 simple misdemeanor.

19 3. A person who participates in a conspiracy to  
20 commit the offense of crop operation tampering, and who  
21 acts in furtherance of that commission, is guilty of  
22 the same offense as the person convicted of committing  
23 the offense on or in the crop operation.

24 4. A person convicted of crop operation tampering  
25 is subject to an order of restitution as provided in  
26 chapter 910.

27 5. In determining the value of damages incurred  
28 under this section, a court shall calculate the actual  
29 and consequential pecuniary losses resulting from the  
30 commission of the offense.

31 **Sec. 15. NEW SECTION. 717A.3A Crop operation**  
32 **interference.**

33 1. A person is guilty of crop operation  
34 interference, if the person acts without the consent  
35 of the owner of a crop operation to willfully do any  
36 of the following:

37 a. Produce a record which reproduces an image or  
38 sound occurring at the crop operation as follows:

39 (1) The record must be created by the person while  
40 at the crop operation.

41 (2) The record must be a reproduction of a visual  
42 or audio experience occurring at the crop operation,  
43 including but not limited to a photographic or audio  
44 medium.

45 b. Possess or distribute a record which produces an  
46 image or sound occurring at the crop operation which  
47 was produced as provided in paragraph "a".

48 c. Exercise control over the crop operation,  
49 including a crop maintained at the crop operation or  
50 other property kept at the crop operation, with intent

1 to deprive the crop operation of the crop or property.  
2 *d.* Enter onto the crop operation, or remain on  
3 or in the crop operation, if the person has notice  
4 that the crop operation is not open to the public. A  
5 person has notice that a crop operation is not open  
6 to the public if the person is provided notice before  
7 entering onto the crop operation, or the person refuses  
8 to immediately leave the crop operation after being  
9 informed to leave. The notice may be in the form of a  
10 written or verbal communication by the owner, a fence  
11 or other enclosure designed to exclude intruders or  
12 contain crops, or a sign posted which is reasonably  
13 likely to come to the attention of an intruder and  
14 which indicates that entry is forbidden.

15 2. A person who commits the offense of crop  
16 operation interference is guilty of the following:

17 *a.* For the first conviction, the person is guilty  
18 of an aggravated misdemeanor.

19 *b.* For a second or subsequent conviction, the  
20 person is guilty of a class "D" felony.

21 3. A person convicted of crop operation  
22 interference is subject to an order of restitution as  
23 provided in chapter 910.

24 **Sec. 16. NEW SECTION. 717A.3B Crop operation**  
25 **fraud.**

26 1. A person is guilty of crop operation fraud, if  
27 the person willfully does any of the following:

28 *a.* Obtains access to a crop operation by false  
29 pretenses for the purpose of committing an act not  
30 authorized by the owner of the crop operation.

31 *b.* Makes a false statement or representation  
32 as part of an application to be employed at a crop  
33 operation, if the person knows it to be false.

34 2. A person who commits the offense of crop  
35 operation fraud is guilty of the following:

36 *a.* For the first conviction, the person is guilty  
37 of an aggravated misdemeanor.

38 *b.* For a second or subsequent conviction, the  
39 person is guilty of a class "D" felony.

40 3. A person convicted of crop operation fraud  
41 is subject to an order of restitution as provided in  
42 chapter 910.

43 **Sec. 17. NEW SECTION. 717A.3C Crop operations —**  
44 **civil actions.**

45 1. A person suffering damages resulting from the  
46 commission of crop operation tampering as provided  
47 in section 717A.3 or crop operation interference as  
48 provided in section 717A.3A may bring an action in the  
49 district court against the person causing the damage to  
50 recover all of the following:

1 a. An amount equaling three times all actual and  
2 consequential damages.

3 b. Court costs and reasonable attorney fees.

4 2. In addition to awarding damages as provided in  
5 subsection 1, a court may grant any equitable relief  
6 that the court determines is appropriate. Nothing in  
7 this chapter shall prevent a party from petitioning a  
8 court for equitable relief.

9 Sec. 18. NEW SECTION. 717A.3D Crop operations —  
10 exceptions.

11 1. Section 717A.3 or 717A.3A does not prohibit any  
12 conduct of a person holding a legal interest in a crop  
13 operation, a crop maintained at the crop operation, or  
14 other property kept at the crop operation which legal  
15 interest is superior to the legal interest held by a  
16 person incurring damages resulting from the conduct.

17 2. Section 717A.3 or 717A.3A does not apply to a  
18 governmental agency or officer who is taking lawful  
19 action involving a crop operation, a crop maintained  
20 at the crop operation, or other property kept at the  
21 crop operation.

22 Sec. 19. Section 717A.4, subsection 1, Code 2011,  
23 is amended to read as follows:

24 1. Except as provided in subsection 2, a person  
25 shall not willfully possess, transport, or transfer a  
26 pathogen with an intent to threaten the health of an  
27 agricultural animal or crop.

28 a. For agricultural animals, a pathogen restricted  
29 under this section shall be limited to a biological  
30 agent or toxin listed in 9 C.F.R. § 121.2(b), as that  
31 list exists on January 1, 2004.

32 b. For crops, a pathogen restricted under this  
33 section shall be limited to a biological agent or toxin  
34 listed in 7 C.F.R. § 331.3, as that list exists on  
35 January 1, 2004.>

36 2. By renumbering as necessary.

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LYKAM of Scott